

Waivers	First Name	Last Name	Claim Number
			W-17-0010
Amount	OGC Received Date	Assigned To	Assigned Date
\$1478.03	09/28/2017	Stephanie Rich	09/28/2017
EPA Decision	EPA Decision Date	Amount Approved	Status
DENIED	07/25/2018	CLOSED	
Appeal	Comments		
No			
Type			
Religious Compensatory Time			

Attachments

From: Redden, Kenneth
 Sent: Wednesday, July 25, 2018 9:27 AM
 To: [REDACTED]
 Cc: Russell, Heather <Russell.Heather@epa.gov>; sarah_wright@ibc.doi.gov;
 Rich, Stephanie <Rich.Stephanie@epa.gov>
 Subject: Waiver Request for [REDACTED], Bill No. 152017P057

Dear [REDACTED]:

This email is in response to your "Waiver of Indebtedness Application," dated 09/22/17, wherein you have requested approval of a waiver of debt in the amount of \$1,461.81. For the reasons set forth below, your request for a waiver is denied.

Background

Our records show that for the pay period ending 10/03/2015 you entered 8 hours of Religious Observance Time Used (RELOE) into your timecard. For the pay period ending 10/15/2016 you entered 16 hours of RELOE into your timecard. RELOE is time off that may be approved by a supervisor for religious observance. An employee does not lose pay for these hours if the employee works comparable additional hours, referred to as "Religious Compensatory Time," and the employee records those hours as Religious Observance Time Earned (RELOB). Here, the agency paid you \$1,461.81 for 24 hours of religious observance. However, when you left the agency on 12/09/16 you had not recorded any RELOB to offset your time off for religious observance. Accordingly, EPA sent you a Bill for Collection on 08/07/17 in the amount of \$1,461.81.

In response to the Bill for Collection, you timely submitted a "Waiver of Indebtedness Application" on 09/22/17. In your application, you state that you were not aware of the debt until nearly 9 months after you transferred agencies and therefore did not have the opportunity to address it.

Analysis

Under 5 U.S.C. § 5584, I have the authority to waive collection of erroneous payments or allowances if collection would be against equity and good conscience and not in the best interest of the United States, provided there is no indication of fraud, fault, misrepresentation, or lack of good faith on the part of the employee. The Comptroller General has held that payments that are proper at the time they were made do not qualify as “erroneous payments” for the purposes of 5 U.S.C. § 5584 and therefore may not be considered for waiver, even if the employee later becomes liable to refund the amount. 1982, B-205775, March 9, 1982.

Under 5 C.F.R. § 550.1002 an agency must grant an employee’s request for religious compensatory time unless it would interfere with the agency’s mission. If an employee fails to make up the hours, those hours convert to leave without pay and the employee is charged. In your case, EPA properly paid you when you entered 24 hours of religious observance time into your timecard. This was a valid payment at the time it was made, even if you were unaware of your obligation to make up the hours. Thus, the overpayment cannot be considered for waiver.

Even if this was an erroneous payment for the purposes of 5 U.S.C. § 5584, it would not be against equity and good conscience to collect the amount that you owe. An employee is responsible for verifying the accuracy of the time and attendance data reflected on his or her timecard and Leave and Earnings statements. Here, it was your responsibility when you submitted your timecards with 24 hours of RELOE to understand the nature of the leave hours that are on your timecard. Additionally, you should have been on notice that you were carrying a negative balance of Religious Compensatory Time because it was reflected on your Leave and Earnings statement for Pay Period 2016-26 as “REL CT -24.” The Comptroller General has held that where an employee reasonably should have known that an overpayment has occurred, it is not against equity and good conscience to collect the overpayment. B-227322, Sept. 19, 1988; B-223508, Dec. 24, 1986.

Based on the foregoing reasons, your request for a waiver is denied. You have the right to request reconsideration of the denial of the claim. In a request for reconsideration, you must present new factual information that might cause the Claims Officer to overturn the prior decision.